

REMARKS

The Amendments

The claims are amended to further provide that B is not (C₁₋₁₀)alkyl substituted with halogen when R⁸ is B-O-C(=O)-.

Applicants reserve the right to file one or more continuing and/or divisional applications directed to any subject matter disclosed in the application which has been canceled by any of the above amendments.

Withdrawn Claims

Applicants urge that the withdrawn method of use claims are subject to rejoinder. Reference is made to the decisions in In re Ochiai, 37 USPQ2d 1127 (Fed. Cir. 1995); and In re Brouwer, 37 USPQ2d 1663 (Fed. Cir. 1996); and the Commissioner's comments thereon in 1184 TMOG 86, March 26, 1996. These make clear that, where product and process claims in the same application have been restricted and the elected product claim has been found allowable, withdrawn process claims including the limitations of the allowed product claim are to be rejoined into the application and fully examined in that same application. It is believed that the product claims are allowable and, therefore, the process claims should be rejoined and allowed as well.

The Rejection under 35 U.S.C. §103

The sole remaining rejection of claims 1-19 and 25-26 under 35 U.S.C. §103 as being obvious over U.S. Patent No. 7,132,504 in view of Patani is respectfully traversed.

The above amendments are believed to render the rejection moot. The rejection is made on the basis that it would be obvious from Patani to modify the compounds of the '504 patent to fluorinate the alkyl group. The claims are amended to exclude the fluorinated alkyl embodiment as well. The scope of the claimed invention is distinct from the '504 compounds and also distinct from any modification thereof according to the teachings of Patani. Thus, the rejection under 35 U.S.C. §103 should be withdrawn.

It is submitted that the claims are in condition for allowance. However, the Examiner is kindly invited to contact the undersigned to discuss any unresolved matters.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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